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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,749	08/24/2001	Nobuyuki Suzuki	35061-02700	4092
7590	10/07/2003		EXAMINER	
Christopher E. Chalsen, Esq. Milbank, Tweed, Hadley & McCloy LLP 1 Chase Manhattan Plaza New York, NY 10005-1413			PATEL, ASHOK	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/938,749

Applicant(s)

SUZUKI ET AL.

Examiner

Ashok Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Saitou et al (2002/0180335, of record).

As to claims 1 and 5, Saitou et al disclose a projection panel (1), a funnel (2), a first neck portion (3), a second neck portion (4), a stem portion (52) and electron gun including a main lens (paragraph 0028) which has a final electrode (shield cup (66) and a focus electrode (anode 65), wherein the first neck diameter is smaller than the second neck diameter (paragraph 0025), the final electrode has a diameter that decreases toward the screen (Figure 1), and a high voltage is applied to the final electrode (paragraph 0026).

As to claims 2, 4, 6, 8, 11 and 12, refer to paragraph 0026.

As to claim 3, Saitou et al disclose a projection tube of claim 1 wherein the final electrode includes a second anode (65) and a shield cup (66).

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As to claim 7, refer to paragraph 0030.

As to claim 13, refer to paragraph 0026.

As to claim 14, this claim is substantially same as claim 1 and is disclosed by Saitou et al.

As to claim 15, refer to Figure 1.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 9, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saitou et al, as applied above to claims 1 and 14.

Saitou et al disclose a projection tube including a spacer contact (69) disposed on the final electrode (anode 65). While Saitou et al is silent about bulb spacer contact forming an electrical contact, it is the position of the Examiner that this

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function is implicit to the name of structure, i.e. contact (69). Saitou et al do not disclose a neck graphite for supplying high voltage. It is also the position of the Examiner that such construction is conventional. It would have been obvious to one of ordinary skill in the art to include a neck graphite in the projection tube for supplying the high voltage because such construction is conventional.

5. Claims 17-19 are objected to as mentioned in the last office action. Prior art of the record does not disclose applicant's claimed projection tube of claim 14, including: (1) the neck graphite being provided on an inner wall of the second neck portion; (2) a flange as fully recited in claim 18; and (3) a cylindrical burring as fully recited in claim 19.

6. The Examiner responds to applicant's arguments as follows. Applicant argues that Saitou et al prior art reference is not enforceable based on applicant's claimed priority date. This is not found persuasive since a certified English language translation copy of a foreign application document is not of record to claim the foreign priority date. Absent the certified English language translation copy, it is the Examiner's position


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that the Saitou et al prior art reference is enforceable under 35 U.S.C. 102(e).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 703-305-4934. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 703-305-4794. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

  
Ashok Patel  
Primary Examiner  
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